

**United States Department of the Interior
Bureau of Land Management
Northeastern States Field Office
LLES003420**

**Capline Right-of-Way, Crab Orchard National Wildlife Refuge
Williamson County, Illinois**

**CATEGORICAL EXCLUSION/DECISION
DOCUMENTATION
DOI-BLM-ES030-2015-0003-CX**

Date: January 2015

Type of Action: Right-of-Way
Section 28 of the Mineral Leasing Act of 1920, as amended
(30 U.S.C. 185)

Serial Number: ILES-057938

Location: 3rd Principal Meridian
Township 9 South, Range 2 East,
Section 26, SWSW,
Section 35, NWSW,
Township 10 South, Range 2 East,
Section 3, SE,
Section 10, NE.
Williamson County, Illinois

Project Acreage: 20 acres

Bureau of Land Management, Northeastern States Field Office
626 E. Wisconsin Ave., Suite 200
Milwaukee, WI 53202
414-297-4400 (phone)
414-297-4409 (fax)



CATEGORICAL EXCLUSION/DECISION DOCUMENTATION

1. **Proponent:** Marathon Pipeline LLC
NEPA #: DOI-BLM-ES030-2015-0003-CX
Project Name: Capline Pipeline Right-of-Way
Case File Number: ILES-057973
Date of Application: January 2015
Location: 3rd Principal Meridian
Township 9 South, Range 2 East,
Section 26, SWSW,
Section 35, NWSW,
Township 10 South, Range 2 East,
Section 3, SE,
Section 10, NE.

Containing xxxx acres in Williamson County, Illinois

2. **Bureau of Land Management (BLM) Office:** Eastern States, Northeastern States Field Office, Milwaukee, Wisconsin
3. **Project Description:** The proposed action would re-authorize an existing crude oil transmission pipeline under Section 28 of the Mineral Leasing Act (MLA) of 1920, as amended (30 U.S.C. 185). The pipeline was constructed across the Crab Orchard National Wildlife Refuge (NWR) in Williamson County, Illinois. The existing pipeline was authorized by the BLM on behalf of the U.S. Fish and Wildlife Service (FWS) on October 27, 1967, under the authority of Section 4d(2) of the Act of October 15, 1966 (80 Stat. 926, 928). The pipeline is known as the Capline Pipeline. The BLM issued a 50-year right-of-way (ROW) to the Shell Pipe Line Corporation for a 40-inch crude oil transmission line that shipped oil from Louisiana to Patoka, Illinois, and crossed the Crab Orchard NWR in southern Illinois. The Shell Pipe Line Corporation continued to operate this transmission pipeline until September 30, 2014, when the pipeline was sold to Marathon Pipe Line LLC.

Marathon Pipe Line LLC submitted an application to allow the continued use of Federal land for the Capline Pipeline on October 28, 2013 prior to the 2014 sale from Shell to Marathon. Marathon's request is considered a new application under the MLA for an existing transmission crude oil pipeline. The MLA is the current authority for issuing a ROW grant for the transmission of oil and gas across Federal lands. The original 1967 grant was issued under an authority that has been partially repealed and does not contain provisions for assignment or renewal of a grant to another operator. Marathon Pipe Line LLC submitted an application to the BLM in compliance with regulations found at 43 Code of Federal Regulations (CFR) Part 2880. Included with the application was a list of Federal lands crossed by the pipeline. The list identified additional lands in

Illinois under the jurisdiction of the Forest Service (FS) and the Army Corps of Engineers (ACOE). Missing from this application were lands in Mississippi under the jurisdiction of the ACOE and the National Park Service (NPS).

The lands under the jurisdiction of the FS in Illinois and the lands in Mississippi under the NPS were determined to be not subject to the provisions of the MLA. The FS lands crossed by the pipeline on the Shawnee National Forest were acquired lands subject to existing leases for the Capline Pipeline. The NPS lands impacted by the pipeline on the Natchez Trace Parkway are not subject to the MLA.

ACOE lands in both Mississippi and Illinois are subject to the interagency coordination requirements of MLA found at 43 CFR 2881.11. When Federal lands under the jurisdiction of two or more Federal agencies are involved in a transmission pipeline, a BLM grant is required to authorize all the Federal lands within a single grant. ACOE declined interagency coordination with the BLM and issued separate grants for their lands in Illinois and Mississippi. This re-authorization of the existing ROW includes only the land crossed on the Crab Orchard NWR under the jurisdiction of the FWS.

4. **Authority:** In accordance with Section 28 of the MLA, and regulations at 43 CFR 2881.11, a BLM grant is required for an oil or gas pipeline or related facility that crosses Federal lands under the jurisdiction of two or more Federal agencies. The existing Capline Pipeline crosses lands subject to MLA under the jurisdiction of the ACOE and the FWS.
5. **Plan Conformance Review:** On May 20, 2014, the proposed action was determined by the FWS to be compatible with the mission of the Crab Orchard NWR with the following stipulations:
 1. Failure of the permittee to abide by any part of the ROW permit or violation of any state or federal regulation will, with due process, be considered grounds for revocation of the ROW.
 2. Regulations and guidelines to be recognized include, but are not limited to: 50 Code of Federal Regulations (CFR) 29.21-29.22; 603 FW 2; 340 FW 3. (Copy Attached)

The National Wildlife Refuge System Administration Act of 1966, as amended, requires a determination of compatibility before an existing use of National Wildlife Refuge land can be extended. A Compatibility Determination was approved by the Refuge Manager for the existing Capline ROW. Allowing the continued use of land for an existing pipeline was found to be compatible with the fulfillment of the National Wildlife Refuge System mission and the purpose for which the refuge was established. The Compatibility Determination was given Regional Office concurrence on May 29, 2014. (Copy Attached)

6. **Compliance with the National Environmental Policy Act (NEPA):** The proposed action is categorically excluded from further documentation under the NEPA in accordance with Department of Interior, Departmental Manual (DM), 516 Chapters 8 and 11.

DM Chapter 11: Managing the NEPA Process—Bureau of Land Management. A ROW renewal meets the categorical exclusion criteria for the BLM contained at 516 DM 11.9 E (9):

Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

DM Chapter 8: Managing the NEPA Process—U.S. Fish and Wildlife Service. A ROW renewal meets the categorical exclusion criteria for the FWS contained at 516 DM 8.5 (C) (4):

The issuance or reissuance of permits for limited additional use of an existing right-of-way for underground or above ground power, telephone, or pipelines, where no new structures (i.e. facilities) or major improvements to those facilities are required; and for permitting a new right-of-way, where no or negligible environmental disturbances are anticipated.

7. **Departmental Exceptions and Critical Resource Values Checklist:** The proposed action generally does not require the preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS) as the proposal has been found to not individually or cumulatively have a significant effect on the human environment. The categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment.

The proposed action has been reviewed to determine if any exceptions apply in accordance with DM 516 and 43 CFR 46.15, and no exceptions were identified:

Have significant adverse impacts on public health or safety.

The reauthorization of an existing pipeline under current regulations will have no impact on public health or safety because no new construction or changes to the existing pipeline facilities are proposed. There will be no change in recreational uses of the land by the public. The pipeline has been operated safely on Refuge without incidence since 1967.

Have significant impact on such natural resources, and unique geographic characteristics such as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, national natural landmarks, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains,

national monuments, migratory birds, and other ecologically significant or critical areas

The reauthorization of an existing pipeline will not involve any ground disturbance or changes to the environment that would have an impact on natural, historic, or cultural resources. Recreation values on the Refuge have not been impacted by the pipeline during its 47 years of operation and continued use of the land for the transmission of oil or gas is not expected to impact water, farmland, or any ecologically significant area or resource on the Refuge.

Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.

The use of the land for a transmission line has not interfered with resources values and management of the Refuge and no new concerns for its operation have been identified.

Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

Re-authorizing the existing pipeline would not have highly uncertain or potentially significant environmental effects or involve unknown risks because it has operated for almost 50 years without incident and the safety measures practiced over the course of time have been effective.

Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

Re-authorizing an existing pipeline does not establish any precedent for future action with potentially significant environmental effects because all future actions will be subject to the requirements and protections of the MLA, NEPA, the National Wildlife Refuge System Administration Act, and all applicable regulations that govern public lands.

Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

The administrative action of re-authorizing an existing pipeline would not have a direct relationship to other actions or result in significant environmental cumulative effects because no new construction will take place. Any future proposal that would require new construction or ground disturbing activity would be analyzed in a separate site specific environmental analysis process.

Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.

There are no known properties listed or eligible for listing affected by the existing pipeline route and because no new ground disturbance will be authorized, it is unlikely that any additional sites would be discovered that have not already been impacted by the original construction.

Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.

The reauthorization of an existing pipeline will not impact any of the threatened or endangered species on the Refuge because issuing a new grant under the MLA is an administrative action and there will be no impact or change to the management of Refuge or disturbance of lands.

Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

Reauthorizing the pipeline under MLA will not violate any Federal, State, tribal or local law or laws imposed for the protection of the environment because the action only updates an existing ROW with terms and conditions under current regulations.

Have a disproportionately high and adverse effect on low income or minority populations.

Allowing the continued use of Refuge land for the existing pipeline would not have a disproportionately high or adverse effect on low income or minority populations because no new operations will be authorized that could potentially impact these groups. The Refuge is located in southern Illinois in the County of Williamson. Williamson has a population of approximately 66,000 with a median household income of about \$32,000. Less than 5% of the population is represented by minority groups.

Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites.

There are no known Indian sacred sites on the Refuge in the area of the pipeline, and the administrative action to re-authorize the existing pipeline would not limit or change access to the land for approved Refuge uses.

Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species

Re-authorizing the existing pipeline would not contribute to the introduction or spread of invasive species because there will be no new ground disturbance and the management of noxious weeds will continue to be carried out with FWS specifications and oversight.

8. I CERTIFY THAT NONE OF THE DEPARTMENTAL EXCEPTIONS LISTED IN PART 6 ABOVE APPLIES TO THIS ACTION.

Prepared by: Carol Grundman

Carol Grundman
Realty Specialist

Date: 6/4/15

Reviewed by: Kurt J. Wadzinski

Kurt Wadzinski
Planning and Environmental Coordinator

Date: 6/4/2015

Decision:

This action is covered by one of the Bureau of Land Management's categorical exclusions, developed pursuant to the National Environmental Policy Act. I have evaluated the action relative to the criteria listed above and have determined that it doesn't represent an exception and is therefore, categorically excluded from further environmental analysis. The proposed action is in conformance with the approved land use plan process for the FWS, and will not involve any significant adverse environmental effects. The proposed action will have no effect on the President's Energy Policy and a Statement of Adverse Energy Impact is not required.

Approved by: [Signature]
Acting District Manager
Northeastern States District

Date: 5 JUN 15

The action is subject to appeal to the Interior Board of Land Appeals under 43 CFR Part 4. The decision is effective upon signing by the authorized officer and shall remain in effect pending an appeal (43 CFR Part 2801.10).



United States Department of the Interior

FISH AND WILDLIFE SERVICE

5600 American Boulevard West, Suite 990
Bloomington, Minnesota 55437-1458



IN REPLY REFER TO:

JUN 11 2014

RECEIVED

FWS/NWRS-RE

JUN 16 2014

BUREAU OF LAND MANAGEMENT
ES-NSFO

Randall C. Anderson, Assistant Field Manager
Bureau of Land Management
Northeastern States Field Office
626 E. Wisconsin Avenue, Suite 200
Milwaukee, WI 53202-4617

Re: Authorization to Process a Request for a Right of Way Grant
at Crab Orchard National Wildlife Refuge

Dear Mr. Anderson:

Marathon Pipe Line LLC ("Marathon") has submitted to the Bureau of Land Management ("BLM") a request for a right of way grant for an oil pipeline on federal land managed by the U.S. Fish and Wildlife Service and National Park Service.

In accordance with the Mineral Leasing Act of 1920 and Amendment dated November 16, 1973, the BLM proposes handling Marathon's request for a right of way grant. This letter authorizes BLM to handle the request for the U.S. Fish and Wildlife Service. As part of this process, BLM is required to obtain U.S. Fish and Wildlife Service approval of the right of way grant prior to issuance of same.

If you have any questions, please contact Jason C. Bramwell, Senior Realty Specialist, at (612)713-5459.

Sincerely,

Charles M. Wooley
Acting Regional Director

RECEIVED

JUN 16 2014

BUREAU OF LAND MANAGEMENT
ES-NSFO

COMPATIBILITY DETERMINATION

Use: Marathon Oil Pipeline right-of-way renewal

Refuge Name: Crab Orchard National Wildlife Refuge

Establishing and Acquisition Authorities: Public Law 80-361 and the Refuge Recreation Act

Refuge Purpose(s): The mission of the National Wildlife Refuge System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.

Crab Orchard National Wildlife Refuge (Refuge) was established by Public law 80-361 "...for the conservation of wildlife, and for the development of the agricultural, recreational, industrial, and related purposes..." (61 Stat. 770, dated Aug. 5, 1947) "...suitable for—(1) incidental fish and wildlife-oriented recreational development, (2) the protection of natural resources, (3) the conservation of endangered species or threatened species..." 15 U.S.C. 460k-1 "...the Secretary...may accept and use...real...property. Such acceptance may be accomplished under the terms and conditions of restrictive covenants imposed by donors..." 16 U.S.C. 460k-2 (Refuge Recreation Act (16 U.S.C. 460k-460k-4), as amended).

On October 19, 1976, Congress enacted Public Law 94-557 designating a portion of the refuge one of many wilderness areas of the National Wilderness Preservation System "...administered for the use and enjoyment of the American people in such a manner as will leave them unimpaired for future use and enjoyment as wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness..." (Wilderness Act, Public Law 88-577, 78 Stat. 892)

National Wildlife Refuge System Mission: The mission of the National Wildlife Refuge System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.

Description of Use: The purpose of this CD is to accommodate the renewal of the expiring right-of-way (ROW) for the existing Marathon Oil pipeline (formerly Shell Oil pipeline), which crosses the Refuge. The existing ROW is an approximately 2 mile long, 60 foot wide strip of land, located in Townships 9 and 10 South, Range 2 East, Williamson County, Illinois. The renewal is for a period of thirty years.

Availability of Resources: The ROW is maintained by Marathon Oil Company, with minimal Refuge staff resources utilized. Pesticide Use Permits (PUPs) are periodically issued by Refuge biology staff, Refuge Law Enforcement Officers respond to any incidents, encroachments, etc., and Refuge maintenance staff could potentially be called upon, but it is not likely. Previous upkeep and maintenance has been compliant with no documented incidents.

Anticipated Impacts of the Use: Since this ROW has been in place since 1967, no new impacts are anticipated. The new ROW document will include stipulations for maintenance of the ROW area, similar to the expiring ROW. These stipulations will include precautions for the prevention of oil leaks, herbicide use approval, and compliance with all applicable federal regulations.

Public Review and Comment: This Compatibility Determination (CD) has been posted for 14 days at the Refuge Visitor Center, local libraries, as well as on the Refuge website. A press release has been sent to local media outlets (television and radio stations). No comments were received during the comment period.

Determination:

☐ Use is Not Compatible

☒ Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility: The following stipulations are required to ensure compatibility and will be included in the ROW permit:

1. Failure of the permittee to abide by any part of the ROW permit or violation of any state or federal regulation will, with due process, be considered grounds for revocation of the ROW.
2. Regulations and guidelines to be recognized include, but are not limited to: 50 CFR 29.21-29.22; 603 FW 2; 340 FW 3

Justification: This pipeline has been in place for 50 years. During the course of the existing permit, the ROW has been well maintained by the permittee and no issues have occurred as a result of its existence on the Refuge.

NEPA Compliance for Refuge Use Decision:

- ☒ Categorical Exclusion without Environmental Assessment
☐ Categorical Exclusion and Environmental Assessment
☐ Environmental Assessment and Record of Decision
☐ Environmental Assessment and Finding of No Significant Impact

Categorical exclusions are classes of actions which do not individually or cumulatively have a significant effect on the human environment. This categorical exclusion is covered by 516 DM 6, Appendix 1, 1.4 B 2 and 516 DM 8.5 (C) (4).

Signature: Refuge Manager: Kathleen Bruchett **Date:** 5/20/14

Concurrence: Regional Chief: [Signature] **Date:** 5-29-14

Mandatory 10-year Re-evaluation Date: 2024

determinations may summarize and incorporate by reference what the refuge manager addressed in detail in the comprehensive conservation plan, step-down management plan, or associated National Environmental Policy Act (NEPA) document.

G. Managing conflicting uses. The refuge manager may need to allocate uses in time and/or space to reduce or eliminate conflicts among users of the refuge. If this cannot be done, the refuge manager may need to terminate or disallow one or more of the uses. The Refuge Administration Act does not prioritize among the six wildlife-dependent recreational uses. Therefore, in the case of direct conflict between these priority public uses, the refuge manager should evaluate, among other things, which use most directly supports long-term attainment of refuge purposes and the System mission. This same analysis would support a decision involving conflict between two nonpriority public uses. Where there are conflicts between priority and nonpriority public uses, priority public uses take precedence.

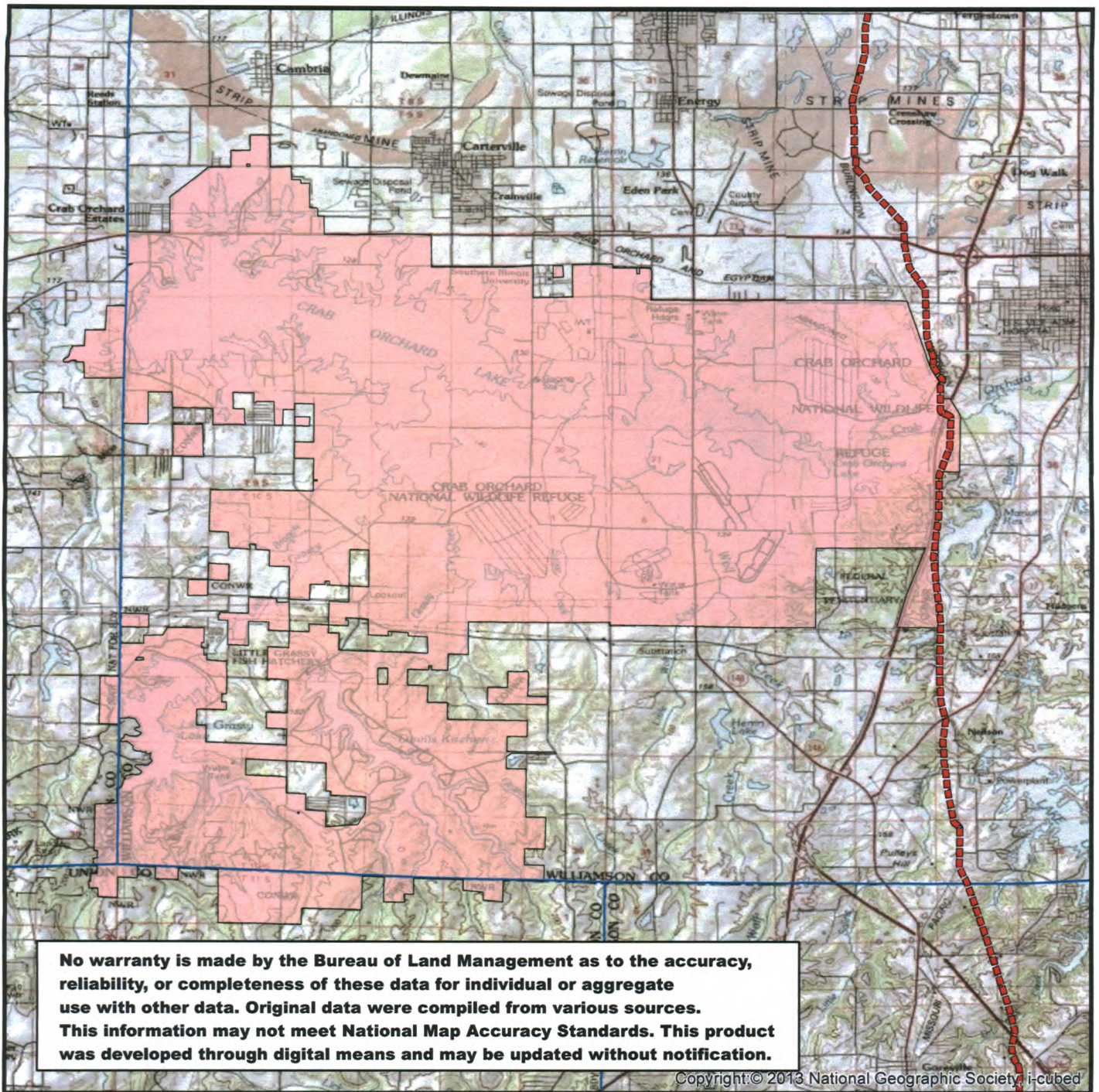
H. Reevaluation of uses.

(1) We will reevaluate compatibility determinations for existing wildlife-dependent recreational uses when conditions under which the use is permitted change significantly, or if there is significant new information regarding the effects of the use, or concurrently with the preparation or revision of a comprehensive conservation plan, or at least every 15 years, whichever is earlier. In addition, a refuge manager always may reevaluate the compatibility of a use at any time.

(2) Except for uses specifically authorized for a period longer than 10 years (such as rights-of-way), we will reevaluate compatibility determinations for all existing uses other than wildlife-dependent recreational uses when conditions under which the use is permitted change significantly, or if there is significant new information regarding the effects of the use, or at least every 10 years, whichever is earlier. Again, a refuge manager always may reevaluate the compatibility of a use at any time.

(3) For uses in existence on November 17, 2000, that were specifically authorized for a period longer than 10 years (such as rights-of-way), our compatibility reevaluation will examine compliance with the terms and conditions of the authorization, not the authorization itself. We will frequently monitor and review the activity to ensure that the permittee carries out all permit terms and conditions. However, the Service will request modifications to the terms and conditions of the permits from the permittee if the Service determines that such changes are necessary to ensure that the use remains compatible. After November 17, 2000, no uses will be permitted or reauthorized, for a period longer than 10 years, unless the terms and conditions for such long-term permits specifically allows for the modifications to the terms and conditions, if necessary to ensure compatibility. We will make a new compatibility determination prior to extending or renewing such long-term uses at the expiration of the authorization. When we prepare a compatibility determination for reauthorization of an existing right-of-way, we will base our analysis on the existing conditions with the use in place, not from a pre-use perspective.

(4) The refuge manager will determine whether change in the conditions under which the use is permitted or new information regarding the effects of the use is significant or not. The refuge manager will make this decision by considering whether or not these new conditions or new information could reasonably be expected to change the outcome of the compatibility determination. Any person at any time may provide information regarding changes in conditions and new information to the refuge manager. However, the refuge manager maintains full authority to determine if this information is or is not sufficient to trigger a reevaluation.



Capline Pipeline - Marathon Pipeline LLC

Crab Orchard National Wildlife Refuge Williamson County, Illinois

